



**THE SAN BRUNO PUBLIC SAFETY
MID-MANAGEMENT BARGAINING UNIT**

MEMORANDUM OF UNDERSTANDING (MOU)

July 1, 2000 through June 30, 2004

MEMORANDUM OF UNDERSTANDING (MOU)
July 1, 2000 through June 30, 2004
Including Compilation of Previous MOU's Covering These Positions
As of July 1, 2000 and Modifications Made to that Initial Compilation
Based on Terms Outlined in Tentative Summary Agreement Dated
December 12, 2000 between the City and Union.

The San Bruno Public Safety Mid-Management Bargaining Unit, represented by the Professional and Vocational Employees Division of Teamsters Local 856, IBT, and representatives of the City of San Bruno have met and conferred in good faith regarding wages, hours, and other terms and conditions of employment of employees in the classifications set forth in Appendix "A" and have exchanged freely information, opinions, and proposals and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

This Memorandum of Understanding, (MOU), is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500 et seq.) and has been jointly prepared by the parties.

This Memorandum of Understanding (MOU) is a compilation of the core provisions from each of the three (3) Memorandum of Understandings which were in effect as of June 30, 2000 for the covered positions of Police Sergeant, Police Lieutenant, Police Captain, and including the addition of the position of Fire Division Chief which was added to the Unit after initial formation of the Unit.

The City and Union agree that after a period of 18 months the Union will assess its interest in a Police sworn exclusive unit. The City recognizes the legal right of unit membership to ultimately form a sworn unit if they so desire after 18 months.

Section 1. Recognition

Union Recognition. Professional and Vocational Employees Division of Teamsters Local 856, IBT, hereinafter referred to as "Union", is recognized as the majority representative, as provided in the City's Employer-Employee Relations Resolution No. 1970-20, adopted March 23, 1970, for all employees assigned to the classifications set forth in Appendix "A", which is attached and made a part hereof.

This unit (Public Safety Mid-Management Bargaining Unit) was formally certified and recognized by the City of San Bruno based on the results of a sealed ballot election held on April 19, 2000.

Section 2. Union Security

Section 2.1 Agency Shop and Dues Deduction

(a) Any regular full-time or regular part-time employee who is covered by this Memorandum of Understanding shall become a member of the Union, or in the alternative, shall pay to the Union as an agency fee an amount of money equal to the months' dues.

(b) Any employee who is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting a public employee organization shall not be required to join or financially support the Union. Those employees may, in lieu of dues, pay sums equal to such dues, to a non-religious, non-labor charitable fund exempt from taxation under Section 501(c) (3) of the Internal Revenue Code. Three charitable funds shall be mutually agreed upon through the meet-and-confer process between the City and the Union, if the need to designate such charitable funds arises.

(c) The agency shop provision shall not apply to management, confidential, or supervisory employees and shall not be a condition of employment. It shall be the obligation of the Union to enforce this provision of the MOU.

(d) The Union shall indemnify and hold the City harmless from any cost of liability resulting from any and all claims, demands, suits, or any other action arising from the operation of this provision or from the use of the monies remitted to the Union, including the costs of defending against any such actions or claims. The Union agrees to refund to the City any amounts paid to it in error.

(e) The City agrees to deduct on a regular basis the periodic membership dues and agency fees from the paycheck of each employee who voluntarily executes and delivers to the City a valid dues checkoff authorization form. Dues deduction shall be consistent with the pay schedule used by the City. Voluntary checkoff authorization for union dues/agency fees which were executed prior to the execution of this Memorandum shall remain in full force and effect.

(1) Effective with the approval of this Memorandum of Understanding, the Finance Director will accept a new dues deduction authorization form from employees in the representation unit covered by the Memorandum of Understanding. This form shall be as follows:

"I, the undersigned, voluntarily authorized by this writing the City of San Bruno to deduct from my wages and to transmit to TEAMSTER LOCAL NO 856 any and all sums of money certified by Local 856 to be payable by me for membership dues or agency fees which are presently due and which shall become due from month to month uniformly imposed by said Local Union."

"This authorization is to remain in effect for a period of twelve (12) months from the date of execution and shall be automatically renewed from year to year thereafter, unless I notify the above-named Union and Employer in writing within twenty (20) days prior to the annual renewal dates that such authorization be terminated."

(f) The Union shall hold the City of San Bruno and its officers and employees, including but not limited to the Finance Director, harmless for following the instructions contained in such dues deduction authorizations. The City shall deliver revocations of membership to the Union on a bi-weekly basis and include verification that receipt was registered mail.

(g) The City Finance Director shall accept authorization for dues deduction on a basis consistent with the City's pay schedule, currently on a bi-weekly basis.

(h) The City shall not be required to collect any special assessments or similar short-time changes in rate. Initiation fees will not be considered a special assessment.

Section 2.2 Communications with Employees

The Union shall be provided suitable space on bulletin boards at the work location for posting notices concerning official Union business, such information shall be in compliance with applicable City and departmental policies.

Section 2.3 Advance Notice

Except in cases of emergency as provided below in this subsection, the Union, if affected, shall be given reasonable advance written notice of any ordinance, resolution, rule or regulation directly relating to matters within the scope of representation proposed to be adopted by the City and shall be given the opportunity to meet and confer with the appropriate management representatives prior to adoption. Proper advance notice shall consist of written notice to the designated business agent with a copy to the designated shop steward.

In cases of emergency when the foregoing procedure is not practical or in the best public interest, the City may adopt or put into practice immediately such measures as are required. At the earliest practicable date thereafter, the union shall be provided with the notice described in the preceding paragraph and be given the opportunity to meet and confer with the appropriate management representatives. As used herein, "emergency" shall mean any situation in which proper management of the City requires immediate action, or in which immediate action is necessary for the preservation of life or property.

Section 2.4 List of Unit Employees

The City shall furnish the Union with the names, initial rate of pay, classifications, and dates of hire of employees newly assigned to the unit and employees leaving the unit. The City shall provide the Union with current rates of pay for all employees in the bargaining unit once per year.

Section 3. City Rights

(a) The City shall retain the full rights of management and the direction of its business and operations, except as expressly limited and set forth in writing in this MOU. Wherein a subject matter is covered by the MOU, the City will act in accordance with those sections.

(b) Nothing herein shall be construed to require the City to meet and confer on matters which are solely the function of management and which are not otherwise provided in this Memorandum of Understanding or letters of understanding executed by the parties in relation to the Memorandum of Understanding. The rights of the City through its Council and management include, but are not limited to, the following:

(1) To exclusively determine the mission of its constituent departments, commissions, and boards;

(2) To set standards of service of the various City departments;

(3) To determine the procedures and standards of selection for employment;

(4) To establish grooming standards;

(5) To lay off its employees from duty because of lack of work and other legitimate reasons;

(6) To maintain the efficiency of governmental operations;

(7) To determine the methods, means, and personnel by which governmental operations are to be conducted;

(8) To determine the content and intent of job classifications;

(9) To determine the methods of financing of departmental operations;

(10) To determine the style and/or types of City-issued wearing apparel, equipment, or terminology to be used;

(11) To determine and/or change the facilities, methods, technology, means, organizational structure, and size and composition of the work force, and allocate and assign work by which City operations are to be conducted;

(12) To determine and change the number of locations, relocating, and types of operations, processes, and materials to be used in carrying out all City functions, including, but not limited to, the right to contract or subcontract any work or operations of the City;

(13) To assign work to and schedule employees in accordance with requirements as determined by the City, and to establish work schedules and assignments;

(14) To establish and modify productivity and performance standards for employees, and to require compliance therewith;

(15) To discharge, suspend, demote, reprimand, withhold salary increases, or otherwise discipline employees for cause;

(16) To take all necessary actions to carry out its mission in emergencies.

It is a major purpose of this section to maximize the flexibility of the City to conduct its day-to-day operations.

(c) Prior to modification of the following subjects, the City shall meet and confer with the Union:

- (1) Minimum qualifications for classifications represented by the Union;
- (2) The content and intent of job classifications; provided, however, that it is understood that job descriptions used to describe the various duties of a classification do not preclude employees from being assigned to work not listed as a specific duty of that classification;
- (3) Licenses and certificates required for such classifications of employees;
- (4) Degrees of training required for such employees;
- (5) Grooming standards applicable to such employees;
- (6) Productivity and performance standards of such employees;
- (7) Styles and types of wearing apparel to be used on duty;
- (8) Size and composition of the work force of the Department;
- (9) Contracting or subcontracting of operations currently being performed by the Department.

The obligation of the City to meet and confer regarding the foregoing subjects shall not be construed to require that the City and the Union reach agreement prior to the implementation of the types of modifications described in this subsection.

(d) Nothing in this section shall be construed to excuse the City from the obligation to meet and confer with the Union regarding any subject or matter not set forth in this section where required to do so by statute.

(e) Neither the Union nor any employee within the bargaining unit shall contest through the grievance procedure the authority of the City under state or federal law to exercise the rights enumerated in subsection (b). Except as provided therein, the Union may use the courts to contest the exercise of such authority.

Section 4. No Discrimination

There shall be no discrimination by either Union or City on any basis prohibited by state or federal law or on account of any legitimate union activity.

Section 5. Union Representatives and Personnel Files

Section 5.1 Personnel Files

An employee, or on presentation of written authorization from the employee, an employee's representative, shall have specific access to the employee's personnel file upon request and reasonable convenience of the Personnel Division. Documentation in the personnel file relating to the investigation of a possible criminal offense, background information on the employee, and letters of reference may be specifically excluded from the inspection and review of the employee and/or the employee's representative.

Medical records and information which would be privileged under state law pursuant to the attorney-client privilege or the work product doctrine may also be excluded. Non-Privileged medical records involving workers' compensation, disability medical evaluation, and pre-hire medical reports shall be maintained in a separate employee medical file which is not included in the employee's personnel file. Personnel files may only be reviewed in the presence of a designated employee of the Human Resources Division. The City will provide employees with copies of their personnel evaluations and warning letters, if any.

The City will provide employees with copies of performance evaluations, letters of recordation, letters of reprimand, if any, and such copies shall be provided to the Union with written authorization of the employee. Subject to the limitations outlined in Section 25.1 of this MOU, for the purpose of this M.O.U., a Letter of Recordation is understood as a written record placed into an employee's personnel file intended to be either informative in nature or to document in a positive, rather than punitive, manner a notice to the employee for personal correction of action, which if continued could result in disciplinary action. In the event the employee feels such a record constitutes an adverse comment, the employee may, within thirty (30) days, file a written response. The Written response shall then be attached to and shall accompany the Letter of Recordation.

A Letter of Recordation shall include a statement in bold print that the Letter of Recordation is informative and not punitive.

Upon request the employee may at his/her expense copy these portions of his personnel file not specifically excluded from review by this section.

Section 5.2 Union Representative

(a) Union representatives may receive complaints or grievances of employees at the work location during work hours. They shall not interfere with the normal conduct of work or duties of the employees, as determined by the department head. The department head shall not unreasonably prevent the employee from meeting with union representatives regarding such complaints or grievances.

(b) Activities such as the soliciting of membership, collection of dues, holding membership meetings, campaigning for office, conducting elections, and distributing literature are strictly prohibited during working hours without the prior approval of the City Manager or his/her representative.

(c) In the event the City believes that the union representatives are abusing the provisions of this section, it shall contact the Union in writing to arrange a mutually acceptable time and place to investigate the City's complaint and to assure full compliance by the union representative.

(d) When any public safety officer is under investigation and subjected to interrogation by his/her commanding officer, or any other member of the police department, which could lead to punitive action, such interrogation shall be conducted in accordance with Section 3303 of the Government Code. The terms used in the preceding section shall be as defined in the Public Safety Officers Procedural Bill of Rights Act.

Section 5.3 History of Personal Exposure

The City agrees that Fire Division Chiefs will continue to be included in the database established to record a history of personal exposure to potentially hazardous substances as outlined in the Memorandum of Understanding with the Firefighters Association.

Section 6. Salary Plan

The salary ranges for positions in this unit were as follows at the commencement of negotiations:

Police Sergeant	\$4,771 to 5,856 monthly
Police Lieutenant	\$5,891 to 7,229 monthly
Police Captain	\$6,326 to 7,763 monthly
Fire Division Chief	\$6,818 to 8,366 monthly

Section 6.1 Salary Ranges

The following reflects the understanding as to adjustments, modifications and changes related to salary and/or benefits which were agreed upon:

(a) The salary for the position of Police Sergeant shall be effective the first pay period after November 1, 2000 and shall be established by the average salary for Police Sergeant in the following comparison agencies: Burlingame, Daly City, Foster City, Redwood City, Millbrae, Pacifica, San Mateo, South San Francisco. Salaries will be determined on the basis of the salary that was in effect on October 1, 2000. The top step salary for a Fire Division Chief shall be increased by four percent (4%) to \$8,760 monthly.

(b) In recognition that Police Lieutenants have been excluded from both POST/Educational Incentive Pay and Overtime Pay and to encourage career development, the salary for the position of Police Lieutenant shall be based on the following: Agreement to maintain a 12.5% salary differential between Police Sergeant. For purposes of this section, the salary of Police Sergeant shall be based upon the top salary step, plus 6% (average incentive pay), plus 4% (estimated overtime pay).

(c) The salary for the position of Police Captain shall maintain a 12.5% salary differential between Police Lieutenant.

(d) Future Salary Adjustments

(1) Effective the first pay period in July, 2001, the salary for the classifications of Police Sergeant and Fire Division Chief will be increased by 4.5%. Salaries for Police Lieutenant and Police Captain will be adjusted in accordance with the formula specified in paragraphs b) and c) of this section.

(2) Effective the first pay period in July, 2002 the salary for the position of Police Sergeant shall be established as the average salary for Police Sergeant in the following comparison agencies: Burlingame, Daly City, Foster City, Redwood City, Millbrae, Pacifica, San Mateo, South San Francisco, Bay Area Rapid Transit District Police Department, San Mateo County Sheriffs Office. Salaries will be determined on the basis of the salary that was in effect on June 1, 2002. In the event the salary survey would result in an increase greater than 6%, the City shall provide a salary increase of 6% and, if so requested by the Union, the City agrees to meet and confer on the issue of salary adjustment in excess of 6%. Salaries for Police Lieutenant and Police Captain will be adjusted in accordance with the formula specified in paragraphs (b) and (c) of this section.

Historical Footnote:

Because of the limited number of Fire Division Chiefs in San Mateo County, the salary for Fire Division Chief will be determined based upon maintaining the current 7.6% salary differential above Police Lieutenant for salary increases during the life of this contract. This is not intended to establish linkage between these positions or to establish a precedent.

(3) Effective the first pay period July 2003 the salary for the classification of Police Sergeant will be adjusted based on the Consumer Price Index (CPI) [SF/Bay Area 82-84=W] for the month of April, 2003. Adjustments shall be based on one of the following structures:

(a) If the CPI is between 0% and 3% the salary of Police Sergeant will be increased by 3%.

(b) If the CPI is between 3.1% and 5.9% the salary of Police Sergeant will be increased by an amount equal to the CPI.

(c) If the CPI is between 6% and 8% the salary of Police Sergeant will be increased by 6%.

(d) If the CPI is greater than 8% the salary of Police Sergeant will be increased by 6% and if so requested by the Union, the City agrees to meet and confer on the issue of salary adjustment only.

Salaries for Police Lieutenant and Police Captain will be adjusted in accordance with the formula specified in paragraphs (b) and (c) of this section.

(e) (Historical note, Revised 9/00) The City instituted a change in the educational requirement for Police Lieutenant Police Captain to require a minimum of a BA or BS degree. The City has established the same education requirement for the newly created classification of Fire Division Chief. On a case by case basis, the City Manager may waive this requirement for current employees [hired prior to January 1, 1997] provided they can document significant and satisfactory progress toward completion of the BA or BS degree. Significant progress shall be defined as at least Junior standing, previous enrollment in appropriate courses for at least four (4) terms, and current enrollment in appropriate courses. The decision of the City Manager is final with regards to waiving this requirement.

(f) Historical footnote: the previous comparative salary survey used for police positions are the following eight cities: Burlingame, Daly City, Foster City, Redwood City, Millbrae, Pacifica, San Mateo and S. San Francisco.

(g) Calculation of actual salary shall be as follows:

(1) For the five step range, the range will be calculated by dividing each range step, beginning with top step, by the factor 1.0525.

(h) Effective as of January 1, 1990, the City adopted the necessary documentation and procedures to implement the provisions of Section 414(h)(2) of the Internal Revenue Code (IRC) which permits a "pick up" program whereby the amount that an employee pays to PERS for retirement would be reported with the amount paid by the employer for income tax purposes; thereby making the employee's portion non-taxable until refunded or retirement for both federal and state purposes.

(i) Salary ranges for represented classifications shall be as set forth in Appendix "A".

Section 6.2 Salary Plan Administration

Employees occupying a position set forth in Appendix "A" of this Memorandum of Understanding shall be paid a salary within the range established for that position's classification.

Section 6.3 Salary Plan Administration, Original Appointment

Except as herein otherwise provided, the salary for a new employee entering the competitive service shall be the minimum salary step for the classification to which the employee is appointed. However, when warranted by special circumstances, the City Manager may appoint a new employee at a salary step other than the minimum step of the respective classification. The City Manager's decision shall be final. Employees re-employed after layoff shall receive a rate within the range established for the class and agreed upon by the City Manager and the employee concerned. Employees on layoff and re-employed after a one (1) year absence, may be paid less than the rate previously earned; provided, however, after six (6) months, employees shall be paid the then current rate for the step previously held.

Section 6.4 Salary Plan Administration, Advancement within Salary Range

No salary advancement shall be made so as to exceed the maximum rate established in the pay plan for the class to which the advanced employee's

position is allocated. Employees hired at the first step of the salary range shall be evaluated for salary advancement after the first six months of service and after additional one-year periods of service thereafter until the employee has reached the maximum rate established. Employees hired at other steps of the salary range shall be evaluated for salary advancement after the first year of service from the anniversary date and after additional one-year periods of service thereafter until the employee has reached the maximum rate established. Advancement within the salary range shall generally be made one step at a time. However, the City Manager may, when circumstances warrant it, advance the salary of an employee more than one step at a time or prior to the initial six months of service. If the City Manager takes such action the anniversary date for salary revision purposes shall be one (1) year from the date of such action.

Advancements shall not be automatic, but shall depend upon increased service value of an employee to the City as exemplified by recommendations of his/her supervising official, length of service, performance record, special training undertaken, or other pertinent evidence.

Advancement to the next higher step within the range of the assigned classification shall be implemented only upon final approval by the City Manager.

Changes in an employee's salary because of promotion, demotion, or an early or delayed salary advancement will set a revised salary anniversary date for that employee.

Salary range adjustments for a classification will not set a new salary anniversary date for employees serving in that classification.

Whenever the schedule of compensation for a classification is revised, each incumbent in a position to which the revised schedule applies shall be paid at the same step in the revised range as the step at which the employee was paid in the previous range.

If an employee takes a leave of absence, pursuant to Section 19.3, the time spent away from work shall not be counted toward the completion of the next step. If an employee takes a leave of absence without pay, the time spent away from work in excess of forty-five (45) consecutive calendar days shall not be counted toward the completion of the next step.

Section 6.5 Anniversary Date

(a) The anniversary date is the date from which time is calculated for purposes of salary step advancement, the ending of the probationary period, the advancement of vacation accrual dates, and the accrual of sick leave. This date shall be the actual date an employee is hired. Future salary and benefit adjustments for vacation etc. would be made effective the beginning of the pay period in which the employee's anniversary date occurred.

(b) The actual date of appointment to a position shall govern seniority and eligibility to take a promotional examination and layoff.

Section. 6.6 Salary Plan Administration, Salary Step After Promotion or Demotion

(a) Promotion

When an employee is promoted from a position in one classification to a position in a higher classification, that employee shall be entitled to receive the rate of pay of the lowest step in the salary scale of the higher classification which provides at least 5% above the salary of the employee, including educational incentive pay if appropriate, but not including either acting pay or special assignment pay. The Chief of Police or Fire Chief, as appropriate, may recommend placement at higher pay step to the City Manager. The decision of the City Manager will be final.

(b) Demotion

(1) General. When an employee is demoted, his/her compensation shall be adjusted to the salary prescribed for the classification to which s/he is demoted, and the specific rate of pay within the range shall be determined by the City Manager. Where the demotion is not for disciplinary purposes, the City Council may provide for a rate of pay higher than the maximum step of the salary schedule for such classification.

(2) Abolition of position. When an employee is demoted as a result of abolition of position, the employee shall be placed at the salary step in the lower classification which most closely approximates but does not exceed the employee's salary in the higher classification.

(3) Voluntary demotions; demotions resulting from probationary rejections. When an employee takes a voluntary demotion to a position previously held or is reappointed to such a position as the result of a

probationary rejection, the employee shall be placed at the same step in the lower classification which the employee last held. The employee's service time at such step shall be the same as the service time held previously at such step.

(4) Disciplinary demotions. When an employee is demoted to a lower classification for disciplinary reasons, the specific rate of pay in the salary range of such classification to which the employee shall be entitled shall be determined by the City Manager.

Section 6.7 Salary Plan, Pay Periods

Employees shall be paid on a bi-weekly basis.

Section 6.8 Acting Pay

(a) An employee assigned to perform substantially the duties of a higher job classification shall, commencing with the seventh (7th) consecutive complete calendar day from the commencement of the assignment receive the rate of pay established for the salary step of the classification of the temporary assignment that is a minimum of five percent (5%) greater than the employee is currently earning, retroactive to the date the employee was assigned to such duties. In no event shall the rate paid exceed the top step of the assigned classification.

(b) The City Manager shall have the discretion to increase the salary of such employee to an amount not in excess of the top step of the higher classification.

(c) An employee assigned to perform such duties for six months shall be entitled to a salary which shall be not less than that of the lowest step of the higher classification, not greater than that of the highest step of such classification, as determined by the City Manager, but in no event shall such employee be paid less than that received pursuant to subsection a) or b) above. Any subsequent adjustments to this rate of pay shall be at the direction of the City Manager.

Section 7. Filling of Vacancies

Section 7.1 Minimum Age

The minimum age of all new employees in the classifications of Police Sergeant, Police Lieutenant, Police Captain and Fire Division Chief is twenty-one (21) years. The City reserves the right to unilaterally change the age limits of department personnel after meeting and conferring with the union.

Section 7.2 Filling Vacancies

Except as otherwise provided in this Memorandum of Understanding, whenever the City Manager determines that a vacancy in a class described in Appendix "A" of this Memorandum of Understanding is to be filled, it shall be filled from employment lists established as a result of competitive examination. In making a determination not to fill a vacancy, safety of the personnel of the department shall be a governing factor.

Section 7.3 Announcement

All examinations for classes set forth in Appendix "A" of this Memorandum of Understanding shall be published by posting announcements in the City Hall, on official bulletin boards, and in such other places as the Personnel Officer deems advisable, including one newspaper of general circulation circulated in the City. Promotional examinations shall not be advertised by newspaper. Notice of promotional examinations need not be given to persons other than those eligible to take such examinations.

The announcements shall specify the following:

- (a) The title and salary range of the class;
- (b) The nature of the work to be performed;
- (c) Preparation desirable for the performance of the work of the class;
- (d) The dates, time, place, and manner of making applications and
- (e) Other pertinent information.

Section 7.4 Application Form

Applications shall be made on forms provided by the Personnel Officer. Such forms may require information covering training, experience, or other pertinent information. All applications must be signed under penalty of perjury by the person applying.

Section 7.5 Disqualification from Open Competitive Examination

The City Manager as Personnel Officer, or his/her designee, may reject the application of any applicant for a position to be filled by open competitive examination if:

(a) The application indicates on its face that the applicant does not possess the minimum qualifications required for the position;

(b) The applicant does not meet the minimum age requirement of the position as of the closing date of the recruitment;

(c) The applicant is not a citizen of the United States and is not a permanent resident alien who is eligible for and has applied for citizenship;

(d) The applicant is physically unfit for the performance of duties of the position applied for;

(e) The applicant is addicted to the habitual excessive use of drugs or intoxicating liquor;

(f) The applicant has been convicted of a crime involving moral turpitude where the conduct constituting the offense is related to or reflects upon the fitness of the applicant to perform the duties of the position;

(g) The applicant has made a false statement of any material fact or has omitted any material fact or has practiced or attempted to practice any deception or fraud in the application.

Section 7.6 Permissive Rejection: Open Competitive Examination

The City Manager as Personnel Officer, or his/her designee, may reject any application for a position to be filled by open competitive examination if, in his/her or their judgment, the number of applicants for the position is so great that it would be unmanageable to interview all applicants possessing the minimum qualifications. In such cases, the applicants selected for interview or further consideration may be limited to those who, in the judgment of the City Manager, his/her designee, possess the qualifications that best fit the needs of the Department.

Section 7.7 Notice of Rejection

Whenever an application is rejected, notice of such rejection with a statement of reason shall be mailed to the applicant by the City Manager or his/her designee.

Section 7.8 Defective Applications

Defective applications may be returned to the applicant with notice to amend the same, at the discretion of the Personnel Officer.

Section 8. Examinations

Section 8.1 Nature and Type of Examinations for Promotions and Hirings

(a) The selection techniques used in the examination process shall be impartial, of a practical nature, and shall relate to those subjects which, in the opinion of the Personnel Officer, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be promoted or hired.

(b) Examinations may consist of such recognized personnel selection techniques as achievement tests, aptitude tests, evaluation of personality and background through personal interviews, performance tests, evaluation of daily work performance, work samples, or physical agility tests, or any combination of them.

Section 8.2 Promotional Examinations

Promotional examinations may be conducted whenever, in the opinion of the City Manager, the needs of the service require. Promotional examinations may include any of the selection techniques mentioned in Section 8.1, or any combination of them. Promotional examinations may also include evaluation of prior city service and accomplishments in special training courses. Only permanent employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations; provided, however, that reinstated or re-employed employees who otherwise would qualify shall be eligible to take the examination.

If in the opinion of the City Manager, a vacancy in the position could be filled better by an open, competitive examination instead of a closed, promotional examination, the City Manager may instruct the Personnel Officer to conduct an open, competitive recruitment process.

Only open, competitive recruitment process shall be used for the position of Police Captain and Fire Division Chief.

Section 8.3 Conduct of Hiring and Promotional Examinations

(a) The City Manager may recommend the manner and methods by which and persons by whom examinations shall be prepared and administered.

(b) The City Council, upon recommendation of the Personnel Officer, may contract with any competent agency or individual for the performance of preparation and administering examinations. In the absence of such a contract, the Personnel Officer shall perform such duties.

Section 8.4 Scoring Promotional and Hiring Examinations and Qualifying Scores

(a) A candidate's score in a given examination shall be the average of his/her scores on each competitive part of the examination. Failure in one part of the examination may be grounds for declaring such applicant as failing in the entire examination, or as disqualified for subsequent parts of an examination.

(b) The Personnel Officer, may, at his/her discretion, include tests which are qualifying only as part of the examination.

Section 8.5 Notification of Examination Results and Review of Papers

(a) Each candidate in an examination shall be given written notice of the results thereof, and if successful, of the candidate's final earned score and rank on the employment list.

(b) Any candidate shall have the right to inspect his/her own examination paper. Any error in computation, if called to the attention of the Personnel Officer within fifteen (15) calendar days after the date of mailing of notices, shall be corrected. Such corrections shall not, however, invalidate appointments previously made.

Section 8.6 Veteran's Preference

No veterans preference shall be allowed for examinations for positions within the classifications set forth in Appendix "A" of this Memorandum of Understanding.

Section 9. Appointments

Section 9.1 Sources of Appointments to Fill Vacancies

(a) Whenever the City Manager determines that a vacancy in a class described in Appendix "A" of this Memorandum of Understanding is to be filled, it shall be filled by re-employment, transfer, demotion, or from eligibles certified from an appropriate employment or promotional list, if available.

(b) Whenever the City Manager determines that a vacancy in a class described in Appendix "A" of this Memorandum of Understanding is to be filled, the City Manager shall determine the availability of employees for re-employment, requests for transfers, or demotion, and of eligibles on employment or promotional lists for the class.

(c) The City Manager shall certify the eligibles available to fill the vacancy by re-employment, transfer or demotion, or from a promotional or employment list.

Section 9.2 Order of Certification

Whenever certification is to be made, the employment lists, if each exists, shall be used in the following order: re-employment list, promotional list, open-competitive list. Whenever there are fewer than three names on a promotional list or seven names on an open-competitive list, the City Manager may make an appointment from among such eligibles or may request the Personnel Officer to establish a new list. When so requested, the Personnel Officer shall hold a new examination and establish a new employment list.

Section 9.3 Appointment

After interview and investigation, the City Manager shall make appointments from among those certified in accordance with Section 11.2. The City Manager shall thereupon notify the person appointed. If the applicant accepts the appointment and presents himself/herself for duty within such period of time as the City Manager shall prescribe, s/he shall be deemed to be appointed; otherwise, s/he shall be deemed to have declined the appointment.

Section 9.4 Nepotism

(a) No person shall be appointed to any position described in Appendix "A" if a member of the immediate family of such person is employed in the department, if the City Manager determines that (1)(a) for business reasons of supervision, safety or security, it would be inappropriate to place one such person under the direct supervision of the other; and (b) the appointment would require that one employee be under the supervision of the other; or (2) the placement of both persons in the department involves potential conflicts of interest greater for persons so related than for non-related persons, and such conflicts cannot be resolved by control of duty assignments.

(b) If such appointment is made, the employees involved shall be assigned, if possible, so that one is not under the direct supervision of the other, or employed to work in conjunction with the other under ordinary circumstances.

(c) If, due to marriage, persons employed in the department become members of an immediate family, the department head shall, to the extent possible, assign such persons to duties in such manner that neither is under the direct supervision of the other, and neither is assigned to work in conjunction with the other under ordinary circumstances.

(d) For purposes of this section, "immediate family" includes father, mother, brother, sister, spouse, child, mother-in-law, father-in-law, grandparents, grandchildren, great-grandparents, great-grandchildren, step-children, foster children, step-parents and domestic partner.

(e) The City Manager will consult with the Union prior to making a decision pursuant to Section 9.4(a) or making an assignment under Section 9.4 (b) or (c).

Section 10. Probationary Period

Section 10.1 Length of Probationary Period

All regular appointments to classifications set forth in Appendix "A" of this Memorandum of Understanding shall be tentative and subject to a probationary period of one year from the anniversary date of probationary appointment.

Section 10.2 Objective of Probationary Period

The probationary period shall be regarded as a part of the testing process and shall be utilized for close observation of the employee's work.

Section 10.3 Appointment or Rejection of Probationer

(a) During the probationary period an employee may be rejected at any time by the City Manager without cause, without hearing, and without the right of appeal.

(b) Prior to the scheduled termination of the probationary period, the City Manager shall notify the probationer in writing as to whether the service of the probationer has been satisfactory and his/her retention in City employment is desired. If the City Manager notifies the probationer that the performance of the latter has been satisfactory, the City Manager shall appoint the probationer to his/her position on a regular basis, effective upon the completion of the probationary period. If the City Manager notifies the probationer that the performance of the latter has not been satisfactory, the employment of the employee shall be terminated upon such notice, or the City Manager may

extend the probationary period for a specific period of time to allow for further observation and evaluation. If the probationary period is extended, the salary step increase for the employee shall be deferred for the period of time of the extension.

(c) Whenever the City Manager rejects a probationer, the written notice of rejection shall advise the probationer as follows:

(1) That if the probationer believes s/he has been rejected because of allegations of misconduct which have been publicly disclosed under such circumstances that the good name, reputation, honor, or integrity of the probationer has been stigmatized, the probationer has the right to a hearing to provide him/her an opportunity to clear his/her name; and

(2) That if the probationer believes s/he has been rejected on account of race, color, ancestry, national origin, religion, sex, marital status, physical handicap, participation in the activities of a labor organization, or the exercise of any right guaranteed to the probationer by statute or constitution, the probationer is entitled to a hearing to determine whether such rejection was, in fact, effectuated upon such invalid basis.

The notice shall advise the probationer that the latter may request such hearing by transmitting to the City Manager in writing not later than 15 days from the date of the notice a request for a hearing. Such request shall specify the grounds upon which the hearing is requested, as set forth in paragraphs (1) and (2) of this subsection. If the probationer does not request a hearing in the manner prescribed by this section within the period allowed, the probationer shall be deemed to have waived his/her right to such hearing.

(d) The City Manager shall conduct hearings requested pursuant to this section. If the hearing has been requested pursuant to subsection (2), the probationer shall have the burden of proof that the rejection was effected upon an invalid basis. At the conclusion of such hearing, the City Manager may sustain the rejection, reinstate the probationer to probationary status if the probationary period has been completed, or reinstate the probationer to probationary status and extend the probationary period if otherwise permissible, if justified by the evidence presented at the hearing.

(e) If, prior to the hearing, the employee presents to the City Manager a written request that the City Manager disqualify himself/herself from conducting the hearing, the City Manager shall assign a designee having no supervisory control over the employee to conduct the hearing. At the conclusion

of the hearing, the hearing officer shall recommend to the City Manager the disciplinary action to be taken, if any, and the City Manager shall make a determination and promptly notify the employee in writing of such decision.

Section 10.4 Promotional Probation

An employee who has previously completed the requisite probationary period and who is rejected during a subsequent probationary period for a promotional appointment shall be reinstated to the former position and salary step from which the employee was promoted; provided that this subsection shall not be construed so as to prohibit the City from discharging any employee during a subsequent promotional probationary period for those reasons and causes set forth in Section 25 of this Memorandum of Understanding. The City will evaluate employees who are serving a promotional probation period, three (3) times during the one year probationary period.

Section 10.5 Extension

The probationary period may be extended upon the written recommendation of the employee's department head and the approval of the City Manager for one or more extensions, each not to exceed six months duration. The Union will be notified in writing of extensions of probationary periods.

Section 11. Promotion, Employment Lists

Section 11.1 Promotion

The City will endeavor to fill vacancies by promotion when in the best interest of the service. In the event the City Manager determines to fill a vacancy by promotion, the Personnel Officer shall prepare and administer an examination for those employees holding similar positions in lower classifications. The names of the successful candidates shall be recorded in the order of their standing in the examination of an employment list. Promotional appointments will be made from the first three candidates on the employment list who are ready and willing to accept the position offered.

If, in the opinion of the City Manager, a vacancy in the position could be filled better by an open, competitive examination instead of a closed, promotional examination, the City Manager may instruct the Personnel Officer to call for applications for the vacancy and arrange for an open, competitive examination, and for the preparation and certification of an eligible list.

Section 11.2 Employment Lists

Employment lists shall become effective upon the approval thereof by the Personnel Officer. Employment lists shall remain in effect for one year, unless sooner exhausted, and may be extended prior to their expiration dates by action of the Personnel Officer for additional six-month periods, but in no event shall an employment list remain in effect for more than two years.

Original appointments can only be made from the top eight candidates on the employment list who are ready and willing to accept the position offered.

The name of any person on an employment list may be removed by the City Manager if the eligible person requests that his/her name be removed, if the candidate fails to respond to a written offer of employment within five business days next succeeding the mailing of notice, which shall be by registered or certified mail, if a subsequent report of a background investigation shows that the person is unsatisfactory, or if the employee has been rejected for appointment three times.

If a candidate indicates s/he refused to be considered for appointment or for interview, the City Manager may, at his/her option, remove the name of the candidate from the employment list.

The names of persons on promotional employment lists who resign from the service may be dropped from such lists.

Section 12. Layoff and Re-employment

Section 12.1 Layoff

Whenever, in the judgment of the City Council, it becomes necessary to abolish positions, the City Council may abolish any position including those set forth in Appendix "A" of this Memorandum of Understanding, and the employee holding such position or employment may be laid off without the right of appeal. The City Manager may likewise lay off regular employees due to lack of work or funds.

In reduction in force, employees with the least length of service in rank shall be laid off first; provided, that any employee so laid off may elect to be reassigned to a classification with a lower salary scale held by an employee with less service with the City provided a) the senior employee has previously held a position in that classification; or b) the classification to which the senior

employee would be reassigned is within the same department and the senior employee is capable by training and experience (meets minimum job requirements) for performing the work to which he/she would be reassigned.

This section does not apply to the right of the City Manager to determine whether and how a vacancy shall be filled.

Section 12.2 Re-employment

In rehiring, the name of the employee last laid off within two years shall be placed at the head of an employment list for a position in the classification formerly held, and the employee shall be given preference in filling vacancies in that classification, and, if re-employed, shall be placed at the same step of the salary range previously held.

Section 13. Resignation and Reinstatement

Section 13.1 Resignation

An employee wishing to leave the competitive service in good standing shall file with the department head, at least two weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the City Manager with a statement by the department head or supervising official as to the resigned employee's service performance and other pertinent information concerning the cause of resignation. Failure to comply with this rule shall be entered on the service record of the employee and may be cause for denying future employment by the City.

Section 13.2 Reinstatement

A regular employee who has resigned in good standing may be reinstated to a vacant position of the same classification as the previous position within a period of two years from the effective date of resignation. Reinstatement shall be made at the salary step recommended by the department head and approved by the City Manager.

Section 14. Demotion

Demotion is the movement of an employee from one class to another class having a lower maximum rate of pay. The City Manager may demote an employee in any class of employment upon probationary rejection, for disciplinary purposes, as a substitute for layoff where authorized by this Memorandum of Understanding, or where the employee volunteers to be

demoted. No employee shall be demoted to a position for which s/he does not possess the minimum qualifications. Three days written notice of the demotion shall be given to the employee before the effective date of the demotion.

Section 15. Call Back Pay

The provisions of this section shall only apply to the classification of Police Sergeant, which is not FLSA exempt.

Pay for employees who are called back to work from home shall commence when the employee reports for work at Police Department headquarters and shall terminate when the employee is released from work at headquarters.

Compensation for call back shall be earned at a minimum three (3) hours and shall be compensated either in pay or compensatory time at the rate of one and one-half times the regular straight-time rate of pay of the employee.

If an employee is called to begin work at an earlier time other than his/her regularly scheduled shift, the following shall apply:

(a) If the employee desires to be relieved from duty, s/he may do so with the approval of his/her immediate supervisor, subject to the staffing needs of the department. The employee shall have the option of using accumulated leave in lieu of completing his/her regularly scheduled shift; in such case the portion of work performed prior to his/her regularly scheduled shift shall be deemed to be overtime.

(b) If the employee leaves work during his/her regularly scheduled shift due to sickness or disability s/he may use sick leave for the remainder of his/her regularly scheduled shift.

Section 16. First Level Chief Officer Response Duty.

Fire Management employees when assigned to and working a time period (one week) and required to serve as a First Level Chief Officer shall receive the following additional compensation for the time period they are assigned to such duty:

(1) An additional compensation of \$750. per one-week assignment shift.

(2) Two (2) additional hours of Management Leave per one-week assignment shift worked.

The City further agrees that this interim level of additional compensation will be retroactive to the time period of February 7, 2001 when the City initiated the Fire Division Chief operating structure. The City remains committed to the fact that is an interim solution and not meant to be a long-term situation. As such, the City agrees that this interim level of additional compensation shall be further reviewed on June 1, 2002 should the City have not found another vehicle with which to provide this first level chief Officer response.

Section 17. Overtime and Management Leave Time

The provisions of Section (a) shall only apply to the classification of Police Sergeant.

(a) Sergeants

Overtime is defined as the compensating of a full-time employee, either in compensatory time or pay, for authorized time actually worked in excess of 40 hours per week or in excess of the regularly scheduled work hours per day. The employee shall have sole discretion in determining whether overtime is received in pay or compensatory time subject to the accrual maximum outlined in the "Compensatory Time Leave Bank" referenced in (a) (1) below.

(1) A "Compensatory Time Leave Bank" is established with a maximum accrual balance of eighty (80) hours.

(2) Employees who have less than eighty (80) hours in their compensating time leave bank may convert holiday time as it occurs to compensatory time leave in lieu of pay, but in no case exceed a total of eighty (80) hours.

(b) Time worked during the first one-quarter hour of excess time worked will not be compensated; however, time worked in excess of one-quarter hour through one-half hour will be granted at a minimum of one-half hour. When the time worked is in excess of one-half hour, overtime shall be computed for the total actual time worked and calculated to the nearest one-quarter hour.

(b) Management Leave Time for FLSA Exempt positions:

The following classifications are classes where compensation is on the basis of responsibility carried out rather the time spent on the job. Since these classifications are Fair Labor Standard Act (FLSA) Exempt, employees are not eligible for over-time compensation. Management Leave as enumerated below

is authorized for each fiscal year. No compensation shall be due to the employee for Management Leave should the employee leave the service of the City or be terminated.

<u>Classification</u>	<u>Hours (Fiscal Year)</u>
Police Captain	80
Police Lieutenant	80
Fire Division Chief	80

(a) Maximum Accumulation: Employees accruing management leave may accumulate up to a maximum of twice the employee's annual leave accrual rate (a maximum of 160 hours). Employees who accrue above this maximum must take the excess leave within thirty (30) days after exceeding this accrual.

(b) Annual Buyout Option: The City will allow an employee to buy out management leave hours on a once per year basis; such credits will be paid on the first pay date in December. Credits available for buyout will be those accumulated as of November 20th.

Section 18. Holidays

(a) The following eleven (11) days are designated as holidays where City Hall is closed:

New Year's Day	Veterans Day
Martin Luther King, Jr.	Thanksgiving Day
President's Day	Day after Thanksgiving Day
Memorial Day	Day before Christmas Day
Independence Day	Christmas Day
Labor Day	

(b) Unless a Holiday is taken as time off on the day it is observed, employees in this bargaining unit will be paid for the Holiday in the pay period which such Holiday occurs at a straight time rate unless otherwise provided for in this MOU. All Holidays listed in paragraph (a) are eight (8) hour holidays.

(c) Non FLSA Exempt employees who perform work on Independence Day, Thanksgiving, Christmas, and New Year's Day shall earn holiday pay at the rate of one and one-half (1-1/2) times the hours worked.

(d) The following holidays or formerly observed holidays constitute twenty eight (28) hours, 3.5 days which shall be credited toward the employee's individual Holiday Leave bank: Employee's Birthday, Lincoln's Birthday, Admission Day, and 4 hours for Good Friday.

Section 19. Vacation Leave:

(a) Vacation accrual and maximum accumulation for employees of this bargaining unit shall be as follows:

Years of Service	Hours of Accrual per Month	Maximum Accumulation
1 – 5	6.67	280
6 –10	10.00	280
11	10.67	280
12	11.22	280
13	12.00	280
14	12.67	280
15	13.33	280
16 - 20	14.00	280
20 - 24	14.67	280
25+	15.33	280

Employees of this bargaining unit shall receive notice of their bi-weekly accrual upon completion of each pay period.

With written permission from the City Manager, employees in this bargaining unit may accumulate 40 hours more than the maximum annual accumulation stated above.

Employees who terminate employment shall be paid in a lump sum for all unused vacation leave in accordance with the provisions of this section upon or prior to the date of termination.

(b) It is understood that it is the employee's responsibility to manage the accrual balances of their vacation leave so that they do not exceed the maximum accrual level as identified in the M.O.U. If an employee should reach the maximum vacation leave accrual, no additional vacation leave shall accrue. Any employee who wishes to exceed the established maximum accrual level must have the prior authorization of the City Manager in order to do so.

(c) Employees within this bargaining unit shall have the option of borrowing up to twenty-four (24) hours against their annual vacation and/or holiday leave balances. Use of this leave shall be in accordance with the

provisions for use of vacation and/or holiday leave. Any time borrowed against an employee's vacation and/or holiday leave bank must be repaid to the bank before any additional leave may be used and/or taken in pay. An employee who borrows against their annual vacation and/or holiday leave bank and terminates employment with the City of San Bruno prior shall be responsible for repayment of the financial equivalent of any time borrowed as allowed in this section.

The City Manager reserves the right to consider prior work service in setting the accrual rate for newly hired employees in this unit.

Section 20. Leaves of Absence

Section 20.1 Sick Leave

(a) Purpose. Sick leave shall not be considered a privilege which an employee may use at his/her discretion, but shall be allowed in case of necessity and actual sickness or disability, except as provided in Section 19.1, paragraphs (b)(4) and (b)(5). In addition, sick leave may be used by an employee, subject to the limiting conditions outlined in Section 20.2, Bereavement Leave.

(b) Rate and conditions of accrual and utilization of sick leave.

(1) For full-time employees, sick leave shall be accrued at the rate of eight (8) hours for each calendar month of service.

(2) There shall be no limitation on the amount of sick leave the employees of this bargaining unit may accumulate.

(3) Sick leave, vacation leave, holiday leave and seniority shall not accrue when the employee is on leave without pay.

(4) Sick leave shall not be used for any disability, whether temporary or permanent, by injury or illness arising out of and in the course of the duties of the employee. In the event sick leave is taken by an employee instead of a leave of absence for industrial disability granted by state law where there is a bona fide dispute between the City and the employee as to whether the disability is industrial, and such dispute is resolved in favor of the employee, any sick leave which was erroneously deducted from the employee's accumulated sick leave shall be restored to the employee.

(5) The procedure for use of sick leave for Police Department employees in this bargaining unit shall be governed by San Bruno Police Department General Order No. 1.03, Section 2.18 as amended

(6) Availability for notification. An employee who is absent on sick leave is expected to be available to answer telephone calls and receive visits by or from his/her supervisor in relation to the illness, injury, or disability, or work-related matters. No employee shall unreasonably refuse to answer a telephone call or receive a visit from a supervisory employee for such purpose.

(7) Suspension of sick leave. When, in the sole opinion of the City Council, a job action exists, it shall have the authority to suspend the use of sick leave benefits for the duration of the job action, retroactive to the beginning of such job action. As used herein, "job action" includes, but is not limited to, any strike, slowdown, stoppage of work, curtailment of production, concerted refusal of overtime work, refusal to operate designated equipment, or to perform customary duties due to any labor dispute, or any concerted refusal to appear at any assigned work station because of claimed or asserted sicknesses or disabilities.

(8) Medical certificate. When an employee returns after an absence on sick leave in excess of one work day, the department head may require him/her to submit a certificate signed by a licensed physician indicating the nature of the illness, injury or disability. If the employee has previously been counseled or warned in writing by the supervisor regarding abuse of sick leave, such certificate may be required by the department head after absence on sick leave for any amount of time. The City agrees to pay for the cost of obtaining such certificate to the extent that the employee's health insurance coverage does not do so.

(9) Termination of employment. In the event an employee's employment with the City is terminated as a result of retirement, death, or abolition of position, the following amount of unused sick leave shall be paid upon termination of employment.

(a) Employees who have completed twenty (20) years or more of service as a full-time employee; fifty percent (50%) of unused sick leave, or eight hundred (800) hours whichever is less;

(b) Other employees; fifty percent (50%) of unused sick leave, or six hundred (600) hours; whichever is less.

(10) Sick leave on holidays. If an employee in the bargaining unit is on sick leave during a holiday, that day shall be treated as sick leave taken.

(11) Family Sick Leave. Upon the approval of the department head, an employee may use up to the maximum number of days provided for by state and federal law which currently provides for up to six (6) regularly scheduled work days of sick leave with pay each calendar year when illness of a person of the employee's immediate household, or immediate family, as defined in Section 19.2, normally residing within the employee's immediate household, or the employee's husband, wife, domestic partner, son, daughter, mother or father, not normally residing within the employee's immediate household occurs and the employee is required to take care of the sick person.

(12) Conversion of Vacation Leave to Sick Leave The City shall have the option of allowing vacation or comp time leave to be changed to sick leave when the employee was actually sick during use of this time off. The City shall review the merits of each situation on a case by case basis and require documentation substantiating that the employee requesting such leave time change was actually ill or injured and required treatment. The intent of this language is to allow an employee who scheduled time off but was actually ill to have that time converted to sick leave. The intent is not to allow an employee who is suffering from travel related associated stomach upset, jet lag or similar affliction to convert vacation time to sick leave. Documentation (doctor's statement or personal affidavit) of the need for treatment is a necessary element for approval of such conversion."

Section 20.2 Bereavement Leave

In the event of a death in the immediate family of an employee, the employee shall, upon written request be granted such time off as is necessary to make arrangements for the funeral and attend same, not to exceed three regularly scheduled working days. This provision shall not apply if the death occurs while the employee is on leave of any kind other than vacation or compensatory time off. Only in the event that the funeral takes place at a location more than 150 miles away from the City of San Bruno, reasonable time off for travel will be allowed not to exceed one regularly scheduled working day.

For the purposes of this provision, the immediate family shall be restricted to father, mother, brother, sister, spouse, domestic partner, child, stepchild, foster child, mother-in-law, father-in-law, step-parent, grandparents, grandchildren spouse's grandparents, aunt, uncle, nephew, niece, great-grandchild or great-grandparent.

At the request of the City, the employee shall furnish a death certificate and proof of relationship. The City Manager may grant bereavement leave for deaths of other persons if he/she determines that special circumstances are applicable.

Bereavement leave applies only in instances in which the employee attends the funeral, or is required to make funeral arrangements, but is not applicable for any other purpose such as settling the estate of the deceased.

Section 20.3 Leave of Absence

The City Manager may grant a regular employee a leave of absence without pay or benefits not to exceed one year. Requests for such leave shall be in writing and approved by the City Manager in writing. The City Manager may terminate such leave of absence upon notice to return to duty prior to scheduled expiration of the leave if s/he determines that the circumstances justifying the leave do not exist, or if the needs of the City justify termination of the leave. Upon expiration of a regularly approved leave, or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time leave was granted. "Reasonable time" shall be defined as ten (10) days unless an extension or need for an extension is identified and approved by the City Manager. Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty, shall be cause for discharge.

An employee who has requested a leave of absence for medical reasons may be required to complete a fitness for duty evaluation to determine that the employee is capable of performing the duties of the job. The employee shall submit a medical certificate which indicates the employee's personal or treating physician is releasing them to return to duty. Any limitations or exceptions must be included in the medical certification. The City of San Bruno reserves the right, at its expense, to send the employee to a physician of its choice for further evaluation. The final determination as to whether the employee is fit for duty shall be made by the City Manager or designee.

Section 20.4.1 Jury Duty Leave

(a) Any employee who is called and required to serve as a trial juror shall be entitled to absent himself/herself from his/her duties during the period of such service or while necessarily being present in court as a result of such call. Under such circumstances, the employee shall be paid the difference between his/her full salary and any payment received by him/her, except travel pay, for such duty. The employee shall notify the department when noticed to serve as a trial juror of the time and place of such duty.

(b) When, in the opinion of the Chief of Police or Fire Chief, an employee's absence from duty would pose an undue burden or hardship upon the efficient operation of the department, the Chief of Police or Fire Chief may request relief from the appropriate agency for the employee serving as a juror.

(c) Where an employee is required to serve as a juror during his/her scheduled work shift, if s/he is relieved of his/her required presence as a juror prior to the end of such shift, s/he shall report to work and complete the shift.

Section 20.4.2 Leave for Court Appearances

This provision shall be applicable to the classification of Police Sergeant only.

(a) An employee who has been subpoenaed as a witness in his/her official capacity shall be paid:

(1) His/her regular salary if s/he is required to appear as a witness while scheduled to be on duty, or

(2) One and one-half (1 ½) times his/her regular salary if s/he is required to appear as a witness while scheduled to be off duty.

(3) On a scheduled work day compensation shall be earned at a minimum of four (4) hours at a time and one-half, except when the beginning of the court appearance is scheduled within the three hour period immediately prior to duty. In such case, the employee shall receive three hours compensation at time and one-half.

Sergeants who complete their shift immediately prior to when they are scheduled to appear in court shall be entitled to the four (4) hour minimum. For example, Sergeants who are regularly scheduled to complete their shift at 0700 hours, who actually work in the morning prior to the court appearance and who appear in court prior to 1100 hours shall receive the four (4) hour minimum. Supervisory personnel may require Sergeants to remain on duty, but shall allow reasonable and sufficient time with pay for the Sergeants to go home if necessary to have breakfast and prepare themselves for the appearance. If the court appearance continues after 1100 hours, all hours, or portions thereof pursuant to Section 16(b) worked after that time shall be at the overtime rate, paid in addition to the four hour minimum.

(4) On a non-scheduled work day, compensation shall be earned at a minimum of four (4) hours at time and one-half.

(b) An employee who has been subpoenaed as a witness in his/her private capacity shall not be paid for the time s/he is not on duty, but may use compensatory time, vacation time, holiday time, or shift exchange.

(c) Where an employee is required to serve as a witness during his/her scheduled work shift, if s/he is relieved of his/her required presence as a witness prior to the end of such shift, s/he shall report to work and complete the shift.

(d) On a non-scheduled work day the City shall not pay for an employee's lunch period during Northern Judicial District court appearance; the lunch period is hereby defined to be one-half hour in length. This restriction shall not apply in the case of the four hour or three hour minimum or as defined above.

In regards to changes in shift assignments made necessary by court appearances, the City reserves the right to alter shift assignments when the Sergeant is given 48 hours notice prior to the start of his/her assigned shift. If an Sergeant is not given 48 hours notice s/he shall have the option to work his/her regularly assigned shift up to a maximum of 15 consecutive hours. The City reserves the right to require an Sergeant to work longer than the 15-hour maximum if the needs of the department so require.

If a Sergeant who is scheduled to work swing shift is required to appear in court during hours s/he is scheduled to be off duty and s/he has not been notified of a shift adjustment within the above 48-hour period, the following rules shall apply:

(1) If the court appearance ends before noon, the employee shall next report to work for his/her regular scheduled shift and shall be entitled to overtime compensation otherwise due him/her in accordance with the provisions of this section.

(2) If the court appearance ends after noon, the employee may, at his/her option, report to police headquarters and continue working until s/he has completed 10 hours of work for that day. S/he shall then be off duty until his/her next scheduled shift the following day. S/he shall not be entitled to overtime compensation under these circumstances. The employee shall advise their supervisor as to whether the employee will elect to continue working on shift or not.

(3) If the court appearance ends after noon, the employee may continue to work until s/he has completed 15 hours work for that day. S/he shall be entitled to five (5) hours overtime compensation. An employee who has elected to continue working may go off shift with the approval of their immediate supervisor.

(e) The City reserves the right to require employees to work in excess of 15 hours in a day if the department head determines that this is necessary to meet the operational needs of the department.

Section 20.5 Military Leave

Military leave shall be provided for in accordance with state and federal law. Any organizational requirements should be contained in either the departmental or City administrative directive as developed by the City Manager.

Section 20.6 Pregnancy Condition

Pregnancy itself is by definition a medical condition. As such, an employee who is pregnant and under medical treatment for such condition or related situation, has the option to utilize several different leave benefit programs. In addition, there are provisions in California State and federal law which make leave without pay available to parents as a result of the birth or adoption of a child. As such, a combination of leave options are available for an employee to use as best fits their individual needs including those listed below. An employee should consult the appropriate MOU sections and/or City administrative directive which governs those benefits or programs for applicability:

(a) Sick leave as provided for by the City for employee use when medically required. Doctor's certification required.

(b) Vacation leave when used in accordance with existing use provisions.

(c) Compensatory Time Off or administrative leave available to the employee in accordance with existing use provisions.

(d) In addition, the City shall provide leave time and/or benefits in accordance with the provisions of current and/or future California State law and federal law governing the birth or adoption of a child, parental leave rights and/or an individual employee's medical condition. The details and procedures outlining the City's compliance with these state and federal policies shall be outlined in city administrative directive as developed by the City Manager. As an illustration, the maximum possible combined leave entitlement for both pregnancy disability leave under FMLA and Government Code Section 12945, subdivision (b) (2) and CFRA leave for reason of the birth of a child is four months and 12 workweeks. This assumes that the employee is medically disabled by pregnancy, childbirth or related medical conditions for four (4) months and then requests, and is eligible for, a 12 workweek CFRA leave for reason of the birth of her child.

Section 20.7 Industrial Disability Leave

Industrial disability leave for sworn public safety positions shall be governed by Section 4850 of the Labor Code as presently constituted or subsequently amended.

Section 20.8 State Disability Insurance (SDI) as an Employee Paid Benefit

(a) To the extent permitted by the State of California, the City agrees, as a 'fully employee paid' benefit and handled as an authorized employee payroll deduction, to enroll qualified employees subject to this Memorandum of Understanding into the State Disability Insurance (SDI) program.

(b) The City shall facilitate coordination of benefits with regard to the use of authorized sick leave accruals used by an employee during such period(s) of time when such employee is drawing SDI insurance benefits relating to paragraph (a).

(c) In no event shall an employee, during absence from work for an illness or disability where SDI benefits are paid, earn an amount of compensation greater than the straight-time wages regularly payable if the employee had actually worked.

Section 20.9 Catastrophic Leave

The City shall provide for a Catastrophic Leave Program as outlined in City administrative directive as developed by the City Manager. The City agrees to meet and confer with the Union as to any changes in this administrative procedure.

Section 20.10 Provision of Long-Term Disability Insurance

The City agrees to include personnel in this bargaining unit in a City-wide Long-Term Disability (LTD) insurance program at the City's expense. The initial enrollment into this program shall occur during Fiscal Year 1997-98.

Section 21. Health and Welfare

Section 21.1 Medical Insurance

(a) Effective November 1, 2000, the City shall make a monthly contribution to the Teamsters Local 856 Health and Welfare Trust of \$616.00 for each eligible employee for the actual costs incurred by the Fund to provide and

maintain the existing level of health and welfare coverage, including provision of domestic partner coverage.

(b) The City agrees to provide for subsequent future annual adjustments to the contribution for health and welfare benefits up to a maximum of four percent (4%) per year (up to \$641.00 for 2001, \$667.00 for 2002, \$694.00 for 2003 and \$722.00 for 2004).

(c) In the event the agreed upon maximum contribution rates are not required by the Fund to cover its actual costs incurred, the City agrees that any carryover may be applied to subsequent year(s) Health and Welfare contributions during the life of this contract. Should the monthly contribution rate requested by the Fund exceed the four percent (4%) level and any applicable carry over amount, the City agrees to meet and confer with the Union regarding the amount of contribution. The City shall consider all relevant plan experience when reviewing requested rate increases by the Fund for the year(s) 2001, 2002, 2003 adjustments. Supporting documentation relevant to the costs incurred by the Fund as it relates to provision of benefits for eligible employees shall be provided prior to the obligation to meet and confer on this issue.

(d) Health and Welfare contribution adjustments after March 1, 1998 will be made annually as of the first of November 2000, 2001, 2002, and 2003 respectively. The Union shall submit a request for contributions up to the maximum allowable amount by October 1 annually of each year. Such request shall be supported by evidence of Trust Fund documentation reflecting actual increased costs. No other adjustments shall be permitted during the term of this MOU.

(e) In the event the Health Security Act (or other comparable Federal or state legislation which provides health care coverage for employees covered by this agreement) is enacted into law during the term of this Memorandum of Understanding and such legislation has an adverse impact on either party, the parties will meet and confer regarding the impact of such legislation on the Memorandum of Understanding.

(f) It is agreed that the above identified amounts are maximum amounts which may be exceeded only by any carryover amount from prior year's premium not needed.

(g) An eligible employee with respect to whom monthly contributions are required shall mean any employee on the payroll on the first day of any calendar month who has been on the payroll of the City eighty (80) hours or

more during the preceding calendar month. Said contribution shall institute full compliance with and full performance of all obligations of the City to provide health and welfare benefits for its employees.

(h) During the term of this MOU the parties herein reserve the right to request the other party to meet and confer on the subject of this section for the purpose of reviewing and considering a competitive proposal from the requesting party for the obtaining of equal or comparable health and welfare benefits for covered employees at no additional or less cost to the City.

Section 21.2 Health Insurance After Retirement From City

The terms of this section are only applicable to Police Captains and Fire Division Chiefs who were employees of the City of San Bruno prior to January 1990.

(1) That members of this bargaining unit retain Teamster Health & Welfare retiree benefits provided by the Teamsters Health & Welfare Trust to retirees, in an amount and at whatever levels set by the Trust for as long as provided by the Trust to the retirees (e.g: not subject to the age or income exclusion of this proposed Section). The provisions of this Section do not bind, modify or amend any conditions of the Teamster's Local 856 Health & Welfare Trust.

(2) That members of this bargaining unit who retire as members of this bargaining unit:

(a) Having at least ten (10) years service with the City of San Bruno; and

(b) Retire at age 50 or older; and

(c) Such retired employees have not received a disability retirement; and

(d) Such employees retire from service and are qualified for retirement benefits under PERS; and

(3) Such qualified retirees and qualified dependents will be entitled to reimbursement for Teamster Health & Welfare retiree benefit "co-payment" from the City, and related dental costs, prescription drug costs and vision care costs, to be paid back to the retiree semi-annually after such payments have been made by the retiree.

(4) The monthly amount paid by the City to the Trust for active employees (or equivalent), shall be credited in advance to the individual retiree's account on February of each year in an amount equal to the anticipated upcoming 12 monthly payments to the Trust (or equivalent) for active members of this bargaining unit.

(a) The individual retiree will be permitted to accumulate an account available for qualified co-payments and dental/prescription/vision costs, but such accumulated account cap will not be greater than an amount equal to two (2) years contributions by the City on behalf of active employees (e.g.: the current year and the year immediately prior).

Example: On February of 1992, unexpended contributions for year 1990 will be deleted, and the remaining unexpended contributions for year 1991 will be added to the expected contributions for 1992 to reach accumulation cap.

(b) Such amounts shall be available to reimburse employees, spouse or dependents for retiree co-payments, dental costs, prescription drug costs, or vision care costs that are submitted semi-annually (May and November) by verified billings or invoices that have been billed to the retiree and paid by the retiree during that prior twelve month period, and thereafter presented to the City for reimbursement no later than twenty (20) days prior to the first day of either May or November. Bills submitted later than thirty (30) days prior may not be reimbursed until the following reimbursement date.

(c) Qualified dependents shall be defined as a spouse or dependents living with the retiree (as "dependents" are defined for federal income tax purposes).

(d) Retirees, spouses or their qualified dependents may not seek reimbursement for medical, dental, or vision billings that may be or have been paid for by other health, dental or vision plans available to the retiree, spouse, or dependent. Partial payments by other health plans may, however, be submitted for reimbursement of the unpaid portion, so long as submitted with the limitation set out above.

(e) Each such retiree shall be limited to his or her accumulated amount, and no such retiree may deplete another retiree's accumulation.

(5) The City's co-payment and/or reimbursement offer to qualified retirees specified in paragraphs 3 and 4 above shall terminate upon each and any of the following events:

(a) Upon the retiree's death

(b) Upon the retiree returning to employment with the City of San Bruno and qualifying for employee health and welfare benefits.

(c) Upon the retiree reaching age 65.

(d) Upon the retiree earning in excess of the limit set by the IRS as FICA non-taxed income in any calendar year, as verified on employee's federal income tax form ["wages, salary and tips"], (excluding spouse's income, if any) subject to request for verification by the City. Said amount shall be adjusted annually by overall salary increases (but not equity adjustments) as provided annually to this bargaining unit by way of the Memorandum of Understanding.

It shall be the responsibility of the retiree to annually supply the City prior to April 30th, a copy of his/her federal income tax return as verification that the earning limit has not been exceeded. Failure to provide the tax return may be cause to terminate these additional retiree benefits.

Termination of the co-payment or reimbursement by reason of any of the conditions listed above, becomes effective upon the date of the disqualifying event: and all such co-payments or billings incurred prior to that date will be reimbursed by the City pursuant to the agreement; and no such reimbursements shall be made by the City to the retiree from the date of disqualification. Disqualification based upon a single year's income also disqualifies the retiree for reimbursements every year after the date of disqualification.

Section 21.3 Health Insurance After Retirement – Third Party Provider

The City and Union agree to meet and discuss developing a trust fund or annuity option with a third party provider such as PEBSCO, or a similar provider, to allow employees to use sick leave payoff at retirement as a vehicle to provide for contributions for retiree medical coverage.

To the extent that that it is consistent with state, federal and IRS laws and regulations, it is the intent to provide this option to all current members of this bargaining unit even if their retirement date precedes the implementation date of the program.

Section 22. Life Insurance

(a) The City shall provide, at its expense, a term life insurance group policy for Teamster Local 856 members covered under this agreement, in an amount equal to the employee's annual base salary as stated in Appendix "A" of this

Memorandum of Understanding. Income tax consequences, in conformance with IRS regulations, will be the responsibility of the employee. All employees earning under \$35,000, will have a life insurance benefit of \$35,000.

(b) Said employees shall be entitled to purchase, at their own expense, additional term life insurance to the extent permitted by the policy carrier under such terms and conditions as are customarily imposed by such carrier in its normal course of business.

Section 23. Retirement and Retirement Related Benefits

Section 23.1 PERS Membership

(a) Employees in sworn public safety classifications shall continue to be covered by the PERS two percent (2%) at age fifty (50) retirement benefit option.

(b) The City agrees to implement the PERS three percent (3%) at age fifty (50) retirement benefit option with a planned date for implementation of July 1, 2001. The Union recognizes that implementation of this retirement option will require concurrence and agreement with the San Bruno Police Association and the San Bruno Fire Association.

In the event that the City is unable to implement the 3% at age 50 retirement option by December 30, 2001, and if so requested by the Union, the City agrees to meet and confer.

(c) The City agrees to provide the 3% at age 50 retirement program option with a planned implementation date of July 2001 with the understanding that the City's cost exposure is neutral and therefore the City agrees to pay up to 11.254% of the agency contribution cost for this program. This commitment is made with the understanding that the Union and City shall meet and confer as to the allocation of any increased cost in excess of the 11.254% paid by the City. Cost allocation could be, but is not limited to, employee payroll deduction, salary deferral, or other such options agreed upon at that time.

(d) The retirement contract in effect on December 1, 1984, between the City of San Bruno and the Public Employees Retirement System (PERS) on behalf of eligible employees of this unit shall be continued during the term of this Memorandum of Understanding. Final compensation for purposes of calculating retirement benefits shall be based upon the "highest year" method under the Public Employees Retirement System (PERS).

Implementation of the 3% at age 50 retirement option shall be considered an amendment to the existing retirement contract.

Section 23.2 Deferred Compensation

Consistent with the provisions of Resolution No. 1984-48 Authorizing and Approving a Deferred Compensation Plan for Participating Employees and Replacement of Resolution No. 1983-42, the City shall permit employees of the bargaining unit, to the extent permitted by law, to voluntarily participate in one of the City's designated deferred compensation programs.

(a) The City agrees to make available at least two (2) different deferred compensation providers at the City's discretion. No mandatory City contributions to such plans or administrative expense shall be required of the City. Costs charged to an employee's individual deferred compensation account by the plan provider shall not be deemed to be an administrative cost of the City.

(b) The City agrees to meet and confer with the union, at their request, should the Internal Revenue Code be amended so as to adversely impact the intended purpose of the of the adopted deferred compensation program. However, it is understood that the City must adhere to all Internal Revenue Code provisions and regulations applicable to a deferred compensation program.

(c) The City shall continue to offer the Security First, Aetna, and ICMA deferred compensation plans. No mandatory City contributions to such plans or administrative expense shall be required of the City in addition to the contributions made or administrative expense incurred by the City as of February 28, 1985. Costs charged to an employee's individual deferred compensation account by the carrier shall not be deemed to be an administrative cost of the City.

Section 23.3 1959 Survivor's Benefits and Long Term Disability

The City shall continue in effect as an employer paid employee benefit the current PERS retirement plan option relating to 1959 Survivor's Benefits [Level II and then changed to Level IV as outlined below] and the Long-Term Disability program described in Resolution No. 1980-85 Adopting and Approving a Long-Term Disability Program.

Historical Note: Change in 1959 Survivor's Benefit Level

The City agreed to modify the PERS contract to offer Level IV 1959 Survivor's Benefits for local safety members in July 1998. It was understood that there is an increased cost to both the employer (agency) and member (employee) rate. The Union agreed that all employees in the bargaining unit shall be responsible, through payroll deduction, for paying both the appropriate member (employee) rate for this program and any employer contribution which exceeds \$2.50 per month. As of this date, current employee cost is projected to be \$2.00 per month and current

employer cost is projected to be \$8.50 per month resulting in an individual employee payroll deduction of \$8.00 per month. These costs may change by implementation date and the then current costs shall be used to determine the accurate employee payroll deduction amount.

Section 24. Incentive Pay Programs

The provisions subsections (a) and (b) of this section shall apply only to the classification of Police Sergeant.

Historical footnote:

Section 23. Was previously titled "P.O.S.T. Incentive Pay" and applied only to sworn personnel.

(a) P.O.S.T. Certification Pay

(1) Three percent (3%) of employees base salary for possession of a P.O.S.T. Intermediate Certificate.

(2) Six percent (6%) of employees base salary for possession of a P.O.S.T. Advanced Certificate.

(b) Educational Incentive Pay

(1) Two percent (2%) for AA or AS degree.

(2) Three percent (3%) for AA or AS degree and POST Intermediate Certificate.

(3) Five percent (5%) for BA or BS degree.

(4) Six percent (6%) for AA or AS degree and POST Advanced Certificate.

(5) Seven and one half percent (7.5%) for BA or BS degree and POST Advanced Certificate.

* incentive pay is calculated on an individual employees base salary. The maximum incentive pay an employee may obtain under Section 23. Incentive Pay Programs is 7.5%. Sections (a) and (b) are not to be included together for purposes of determining the level of incentive pay."

(c) Bilingual Pay

The City agrees to implement, on a two year trial basis, a program that will provide a 2.5% salary incentive for employees demonstrating communication skills proficiency in a designated foreign language or American Sign Language. The City agrees to meet and confer with the Union regarding the testing method and minimum qualification levels regarding this incentive pay category.

(d) Physical Fitness Pay

(1) Members of this bargaining unit shall be paid \$50.00 per month for meeting identified program physical fitness criteria. The City and the Union agree to meet and confer to establish testing methods and minimum qualification levels regarding this incentive pay category.

(2) Fire Division Chiefs will continue to be eligible to participate in the Physical Fitness Program consistent with the Fire Association.

(e) Detective Sergeants Special Assignment Pay

Detective Sergeants shall receive special assignment pay, in the amount of 5% increase in base salary beginning on the first day of the assignment and continuing until the last day of the assignment.

Section 24.1 Service Club Membership

The provisions of this section apply only to Police Captains and Fire Division Chiefs.

The City finds that voluntary, off-duty active and regular participation by members of the bargaining unit in a regularly meeting, locally chartered, formally organized and nationally recognized non-profit service club (i.e., Lions, Kiwanis, Rotary, Soroptomists, or other similar organizations approved by the City Manager or the City Council) to be of community wide benefit. The City will contribute to the voluntary participation by members of this bargaining unit, a share of the cost to include fees, assessments or such similar charges related to participation in a service club, by making such payments, upon request by the employee during the month of July of each year, for completed active and regular participation during the previous period of July 1 through June 30, in the amount of six hundred dollars (\$600.00), or the prorated monthly equivalent thereof.

Section 25. Uniform Allowance

It is understood that this uniform allowance is provided for the purposes of employee's compliance with departmental uniform requirements and that it is the responsibility of each employee to be in compliance with the departmental requirements at all times.

(a) Employees in this unit shall receive an annual uniform allowance of seven hundred five dollars (\$705). In no case shall the uniform allowance for members of this group be less than that paid to sworn members of the Police Association.

(b) Said uniform allowance shall continue to be paid in a lump sum distribution no later than September 1 annually. The Uniform Allowance shall be increased by the CPI index for the month of June in each subsequent year.

(c) The City shall pay the employee's PERS contribution for uniform allowance.

Section 26. Discipline

The City may discharge, suspend, demote, reduce salary, or otherwise discipline any employee for cause including, but not limited to, dishonesty, insubordination, drunkenness, incompetence, willful negligence, failure to perform work as required or failure to comply with or violation of the City's reasonable rules regarding safety conduct and operations. Any employee who has been subject to such discipline shall be furnished the reasons for such action in writing with a copy of such letter furnished to the Union.

Section 26.1 Letters of Reprimand Not Subject to Grievance Procedure

Notwithstanding any other provision of this MOU, a Letter of Reprimand issued by the City to any employee shall be handled only in accordance with the provisions of this section, and shall not be subject to the grievance procedure as provided in Section 28.

(a) The employee shall have thirty (30) days within which to file a written response. Such written response shall be attached to, and shall accompany the Letter of Reprimand.

(b) A Letter of Reprimand shall be purged from the employee's work record after retention for a period of twenty-four (24) months or as required by law. This provision shall include removal of Letters of Reprimand issued prior to April 1, 1985.

(c) Within ten (10) calendar days after receipt of a Letter of Reprimand, the employee may, in writing, appeal such to the City Manager for administrative review. The City Manager shall, after affording the employee the opportunity to personally meet with him or her, consider the basis for issuance and such written and/or oral objections presented by the employee. Thereafter, the City Manager shall either affirm, rescind, otherwise modify the disciplinary action.

(d) In the event a Letter of Reprimand issued subject to this section is subsequently used to evidence that progressive disciplinary action has been considered in determining the extent of a more severe disciplinary action, such letter(s) with any employee response attached thereto as provided in paragraph (a) of this section, shall be submitted on appeal to the reviewing authority for such consideration as the reviewing authority deems appropriate.

Section 27. Pre-disciplinary Hearings

(a) No regular employee shall be demoted, suspended, or discharged for a disciplinary purpose except in accordance with the provisions of this section; provided, however, that this section shall not apply to suspensions of less than 40 hours.

(b) Whenever the City Manager proposes to demote, suspend, or discharge a regular employee in a case in which this section is applicable, the City Manager shall conduct an informal hearing at which the employee shall have the right to respond to the charges. The City Manager shall provide the employee with written notice of the hearing not less than five days prior thereto. The notice shall state the nature of the proposed disciplinary action and the reasons therefore. The notice shall also include a copy of the charges and materials upon which the proposed action is based.

(c) At the hearing, the employee shall have the right to present an oral or written response to the proposed action. Thereafter, the City Manager shall determine, based upon such response and the materials upon which the proposed action was based, whether to impose the action initially imposed, lesser action, or to take no action. The City Manager shall promptly notify the employee in writing of such decision.

(d) If, prior to the hearing, the employee presents to the City Manager a written request that the City Manager disqualify himself/herself from conducting the hearing due to bias or prejudice, the City Manager shall assign a designee having no supervisory control over the employee to conduct the hearing. At the conclusion of the hearing, the hearing officer shall recommend to the City Manager the disciplinary action to be taken, if any, and the City Manager shall make a determination and promptly notify the employee in writing of such decision.

Section 28. Suspension

Section 28.1 Suspensions Without Pay

An employee in a classification of employment set forth in Appendix "A" hereto may be suspended without pay for a disciplinary purpose.

(a) A department head shall have the power to suspend a subordinate employee without pay for not more than 40 hours. The department head shall immediately notify the City Manager of the suspension in writing. The City Manager shall have the power to rescind, extend, or reduce the suspension.

(b) The City Manager shall have the power to suspend a subordinate employee for an amount of time the City Manager deems appropriate.

(c) It is the intent of this section to allocate to the department head the power to impose minor suspensions without the approval of the City Manager, but with immediate notice to him/her, to enable the department head to take immediate action to remedy employee misconduct which may pose an immediate threat to the health, safety, or welfare of other employees or to the public at large.

Section 28.2 Administrative Leave with Pay

An immediate supervisor, a department head, or the City Manager shall have the power to suspend a subordinate employee with pay pending investigation of a matter in which the employee may be involved which may lead to disciplinary action against him, or pending consideration of possible disciplinary action against him/her, or where his/her continued presence would, in the judgment of the supervisor, department head, or City Manager, jeopardize his/her health or safety or that of others. An immediate supervisor making such suspension shall immediately notify the department head, who shall immediately notify the City Manager in writing. The department head or the City Manager may terminate such suspension. A department head making such suspension shall immediately notify the City Manager in writing. The City Manager shall have the power to rescind, extend, or reduce an administrative leave with pay.

Section 29. Grievance Procedure

(a) Definition. A grievance is any dispute which involves the interpretation or application of any provision of this Memorandum of Understanding during its term, or any provision of the Personnel Rules, or written rules of the Police Department or Fire Department. All ordinances, resolutions, rules and regulations, the subject of which is not specifically covered by this Memorandum of

Understanding, the Personnel Rules, or the Police Department rules, are excluded from the grievance procedure, and are not covered by the procedures set forth in this section.

(b) Initial presentation. The initial (first level) presentation of a grievance shall be to the immediate supervisor of the employee claiming to have a grievance. The grievance may be either oral or in writing. If made in writing, the grievance shall comply with the requirement of subsection (c) for a formally presented grievance.

(c) Formal presentation. The formal presentation of a grievance shall be written and shall state which provision of this Memorandum of Understanding, Personnel Rules, or Police Department or Fire Department rule has been misapplied to the detriment of the grievant and shall indicate the redress sought. The grievance shall be signed by the individual or Union presenting the grievance. In the event that more than one individual is alleged to be aggrieved, the grievance may be signed by a duly authorized representative of the Union, in which case the grievance shall indicate the names of the persons on whose behalf it is filed. In the event the person to whom the grievance is presented determines that the grievance is defective on its face, s/he shall reply in writing to the filer within twelve days after receiving the grievance, indicating in writing the specific defects. The reply shall specify that the grievant has twelve days to correct the defects or the grievance shall be deemed to be withdrawn. If the grievance is not corrected within said 12-day period, it shall be deemed to have been withdrawn. This subsection is intended to avoid unnecessary grievances. The failure of an individual to file a grievance in a particular situation does not of itself establish a past practice.

(d) Department head. A grievance which is not settled at the first level may, within twelve days of the decision of the supervisor, be appealed in writing to the department head. If so appealed, the grievance, unless previously formally presented, shall be presented as provided in subsection (c). The department head shall render his/her decision and comments in writing and return them to the employee within twelve days after receipt of the formal grievance.

(e) Power of immediate supervisors and department heads in resolving grievances. In the resolution or decision of a grievance, no immediate supervisor or department head shall modify any procedure or rule within the department unless and until s/he shall have received the written approval of the City Manager. However, the immediate supervisor and department head may interpret and apply existing procedures or rules.

(f) City Manager. A grievance which is not settled at the department head level may be appealed in writing to the City Manager within 12 days of the decision

of the department head. Within 12 days after receipt of the appeal, the City Manager shall set a date, which is not more than 12 days from the date of receipt of the appeal, to meet with the grievant and with other appropriate persons to attempt to resolve the grievance. If a solution is not agreed upon, the City Manager shall render a decision within 12 days of the meeting.

(g) Time limits. Grievance shall be filed within 15 days of the incident or occurrence about which the employee claims to have a grievance, except that a grievance may be filed within 30 days of such incident or occurrence if the employee can show that within 15 days of the occurrence s/he did not have actual knowledge of the occurrence or had no reason to know of it.

(h) Representation. The grievant shall have the right at all steps of the grievance procedure to be represented by a person or organization of his/her own choosing; provided, however, that if the grievant is not represented by the Union, s/he shall present to the City a written waiver of his/her right to be represented by the Union and shall hold the Union harmless from any liability to him/her arising from the lack of Union representation.

(i) Effect of a grievance. The making or filing of a grievance shall not prevent the City or any authorized employee of the City from taking action deemed appropriate, nor shall it have the effect of suspending action previously taken, even though the action may involve or be part of the subject matter of the grievance. The fact that a probationary employee has filed a grievance or has authorized the Union to file a grievance shall not be taken into account in any evaluation of his/her work performance. The failure of an individual to file a grievance in a particular situation does not of itself establish a past practice.

(j) Disciplinary matters. In the event an employee feels that a discharge, suspension, or demotion is unjust, the employee shall have the right to appeal the case through the grievance procedure by filing a grievance through the City Manager within 12 days from the date the employee was notified of the action.

Untimely appeals shall not be entertained under the grievance procedure; provided, however, that the City Manager in his/her sole discretion may allow the filing of an appeal of a disciplinary action within 30 days from the date the employee was notified of the action if the City Manager determines that the failure of the employee or his/her representative to file the appeal within the normal 12-day period was the result of excusable neglect or inadvertence.

Upon the timely filing of a grievance, the provisions of subsection (n) through (r), inclusive, shall apply. The discharge of probationary employees shall not be subject to the grievance procedure.

Decisions of arbitrators and adjustment boards on matters properly before them shall be final and binding on the parties hereto, except as provided in this paragraph. The arbitrator and adjustment boards shall only have the power to reduce the discipline imposed if it is determined that the degree of discipline imposed was arbitrarily excessive. Such decision shall not be deemed to have been arbitrarily excessive unless the arbitrator shall have evaluated and made specific findings regarding the following:

- (1) The employee's work record and performance evaluations;
- (2) The employee's prior disciplinary record;
- (3) The seriousness of the conduct for which discipline was imposed;
- (4) The impact of such conduct upon department operations;
- (5) The frequency of occurrence of such conduct;
- (6) The effect of such conduct upon community safety and the safety of fellow employees;
- (7) In the case of discharge, the effect of the employee's continued employment on community safety, safety of fellow officers, and the integrity of delivery of police services;
- (8) In the case of discharge, the effect of the recurrence of such conduct on police department morale;
- (9) The likelihood of recurrence of such conduct;
- (10) The existence of mitigating factors related to the conduct, which shall be specified.

In making such evaluation and findings, arbitrator shall be guided by prior arbitration decisions, prior court decisions, and the history of prior discipline within the police department.

The decision of the adjustment board or arbitrator is final.

In the event the adjustment board or arbitrator has evaluated the above criteria and has rendered an award with a different level of discipline than that initially imposed by the City, it shall be concluded that the adjustment board or arbitrator has found that the initial discipline was arbitrarily excessive.

(k) Days. The time limits provided herein refer to calendar days.

(l) Waiver of time limits. The time limits provided herein may be waived by the mutual consent of the parties.

(m) Determination of arbitrator or adjustment board. A grievance which is not settled by the City Manager may be appealed in writing for final determination. The written notice of appeal must be filed with the City Manager within 12 days of the date of his/her written decision.

If the grievance is of a disciplinary action consisting of a suspension of less than 30 days (the words ", a reprimand," deleted on 4/1/87) or another action where there is no discharge, demotion, or reduction in pay, the grievance shall be submitted to an adjustment board comprised of two employee representatives and two representatives of the City. No decision of the adjustment board shall be final and binding without receiving the affirmative votes of at least three members. The parties may mutually agree to submit other types of grievances to the adjustment board.

If the grievance is of a disciplinary action consisting of a discharge, a suspension of 30 days or more, a demotion, or a reduction in pay, or a dispute which involves the interpretation or application of any provision of this Memorandum of Understanding, any provision of the Personnel Rules, or written rules of the Police Department, or a dispute which has been submitted to an adjustment board and the board has been unable to arrive at a majority decision, the grievance shall be submitted to an arbitrator.

(n) Selection of arbitrator or adjustment board. Within 12 days after the filing of the appeal, the City Manager and the grievant shall meet or otherwise communicate to select an adjustment board or mutually acceptable arbitrator, as the case may be, who agree to serve. Where the matter is to go to arbitration, if the parties cannot agree, a list of five arbitrators will be obtained from the California State Conciliation Service, American Arbitration Association, or some other source mutually agreed upon. If the parties cannot agree on one of the names on the list, each party (beginning by lot) shall alternately strike one name from the list until one name remains, who shall be the arbitrator if s/he agrees to serve. If s/he will not serve, the process shall be repeated until an arbitrator is found.

(o) Decision. The decision of the arbitrator shall be in writing and shall set forth the findings of fact and conclusions on the issues. It shall be submitted to the City Manager and the grievant and shall be final and binding upon the parties.

(p) Changes in Memorandum of Understanding not arbitrable. Proposals to add to or change this Memorandum of Understanding or written agreements or

addenda supplementary hereto shall not be arbitrable, and no proposal to modify, amend, or terminate this Memorandum of Understanding, nor any subject matter arising out of or in connection with such proposal, may be referred to arbitration under this section. Neither any adjustment board nor arbitrator shall have the power to modify this Memorandum of Understanding or written agreements or addenda supplementary thereto, or to establish any new terms and conditions of employment.

(q) Limitation. No adjustment board or arbitrator shall entertain, hear, decide, or make recommendations on any dispute unless such dispute falls within the definition of a grievance, as set forth in subsection (a) above.

(r) Costs. The fees of the arbitrator (including any per diem expenses, travel and subsistence expenses), the cost of any hearing room, and the cost of preparing the transcript of the hearing, if any, for the arbitrator shall be borne one-half by the City and one-half by the grievant. All other costs and expenses shall be borne by the party incurring them.

(s) Exclusiveness of remedy. The grievance procedure shall be the exclusive remedy for matters which are grievable thereunder.

(t) All grievances involving or concerning the payment of compensation shall be initially filed in writing with the employee's department head. In such cases no adjustment shall be retroactive for more than 30 days from the date upon which the grievance was filed.

Section 30. Leaving Work for Personal Business (Non FLSA Exempt Positions)

Non FLSA Exempt employees shall not be permitted to leave work for the conduct of personal business or non-emergency doctor and dental appointments. Non Exempt employees may request from their supervisor a rescheduling of work to allow them to go to doctor and dental appointments without loss of accrued leave.

If there is a rescheduling, the Sergeant must still work a full shift. The operational needs of the department shall be the criterion from which rescheduling decisions are made.

Section 31. Safety Equipment

In recognition of Labor Code Section 6401 and Government Code Section 5008.1, the City will furnish to full-time personnel designated as

peace officers as defined by Penal Code Section 830.1 (1981 Statutes) the following identified items constituting safety equipment for sworn police personnel in this unit:

1. (1) duty firearm
2. (1) firearm holster
3. (1) equipment belt
4. (1) ammunition and holder
5. (1) baton and baton holder
6. (2) speed loaders or firearm magazines
7. (1) rain coat and rain pants
8. (1) chemical agent and chemical agent holder
9. (1) knife
10. (1) handcuffs and holder
11. (1) flashlight
12. (1) whistle
13. (1) rainboots (one Pair)
14. (1) black rain cap
15. (1) bulletproof vest
16. Service emblems according to Departmental Policy
17. (1) bicycle shirt
18. (1) pair bicycle shorts
19. (1) utility uniform
20. (1) riot helmet
21. (1) pair boots
22. (1) QuickCode (Penal and Vehicle Code)

Motorcycle personnel only

23. (1) leather jacket
24. (2) breeches
25. (1) pair leather boots
26. (1) pair safety glasses
27. (1) pair leather gloves

Prior to purchasing the above mentioned equipment, the City will meet and confer with the Union to consider recommendations from the Union on quality and brand of such equipment.

Such Safety equipment shall remain the property of the City and shall be subject to such City adopted specification and operating procedures as deemed necessary by the City.

The wearing of bulletproof vests will be at the option of the employee and the City shall not be responsible for the death or injury attributable to the failure of wearing such vests except as is presently provided by workers' compensation law.

Fire Division Chief shall be provided with the same fire safety equipment as are provided other fire personnel.

Section 32. Loss of Driver's License

(a) An employee whose driver's license is suspended or revoked for a period of six (6) months or less so as to prevent him/her from lawfully operating a vehicle during the course of his/her duties, where operating a vehicle is part of the regular course of employment, shall be suspended without pay or benefits for that period. If the loss of such driver's license is attributable to the use of alcohol or drugs, the employee shall agree to and shall faithfully participate in a counseling and rehabilitation program agreed to by the City to correct the problem, if requested to do so by the City Manager. Failure to agree and to faithfully participate in such a program shall constitute a cause for dismissal.

(b) Any suspension or revocation of the driver's license of an employee for a period of more than six (6) months which prevents him/her from lawfully operating a vehicle during the course of his duties, where operating a vehicle is a part of the regular course of employment, or any failure of an employee to notify the City of any suspension or revocation of his/her driver's license, regardless of duration, shall constitute a cause for dismissal.

(c) If an employee does not have a valid driver's license for reasons other than suspension or revocation of such license, the City may direct the employee to acquire his/her license within the next working day of the Department of Motor Vehicles. All time missed from work shall be deducted from accumulated vacation, holiday, or compensatory time. If the employee does not acquire his/her license within the required time, s/he shall be treated as if his/her license had been suspended or revoked for a period of six months or less.

Section 33. Living Radius

The principal residence of police sergeants in this unit shall be located within the counties of Alameda, Contra Costa, Marin, Napa, San Mateo, San Francisco, Santa Clara, Solano, Sonoma or Santa Cruz. No grievance on this issue shall be permitted during the effective term of this Memorandum of Understanding by any person who may be dissatisfied with the limitation on residency prescribed herein.

Section 34. Disaster Responsibility

When a significant disaster, as defined by the Police Chief, Fire Chief or City Manager, occurs in San Bruno, employees in classifications set forth in Appendix "A" of this Memorandum of Understanding shall report to the City of San Bruno for duty upon notification; provided, however, where a natural or man-made disaster is of such magnitude that a reasonable person would think to respond, no notification is necessary.

Section 35. Carry Out of Assignments

Employees shall carry out all instructions issued by their supervisors regarding work assignments. If there are any complaints in regard to the work assignment, the employee may exercise his/her right to use the grievance procedure after the instruction has been carried out.

Section 36. No Strike

Participation in any job action, as defined in Section 19.1(b)(8) of this Memorandum of Understanding, by an employee pertaining to his/her employment with the City of San Bruno shall constitute an automatic resignation from the position, which position shall be deemed for all purposes to be vacant.

Section 36.1 Patronizing Businesses Subject to Job Actions

The City will make reasonable efforts to avoid obtaining materials, supplies, and equipment from businesses within the City that are the subject of a job action if there are reasonable alternative sources within the cities of Millbrae, San Bruno, or South San Francisco. This will not apply to materials, supplies, or equipment which the City is legally required to obtain from a particular source due to competitive bidding requirements or other contractual obligations. In the event that such items are to be picked up at a place of business which is the subject of such a job action, the City shall refrain from the use of bargaining unit employees to obtain them if other alternatives are reasonably available. In times of emergency, this paragraph will not be applicable. For purposes of this paragraph, "emergency" is defined as an immediate threat to life and property. The Union shall be notified when the "emergency" exception is to be invoked.

Section 37. Attendance

Failure on the part of an employee, absent without leave, to return to duty within 24 hours after notice to return shall be cause for immediate discharge, and such employee automatically waives all rights under the Personnel Ordinance,

Rules and Regulations, and this Memorandum of Understanding. Notice shall consist of a letter by registered or certified mail delivered to the last-known address of the employee.

Section 38. Past Practices and Existing Memorandum of Understanding

(a) Continuance of working conditions and practices not specifically provided herein or authorized by ordinance or resolution of the City Council shall not be guaranteed by this Memorandum of Understanding.

(b) Specific provisions of this Memorandum of Understanding shall supersede all existing and prior Memoranda of Understanding between City and the Union, Personnel Rules, Regulations, and Ordinances on the same subject.

Section 39. Negotiable Benefits

The inclusion of certain benefits in this Memorandum of Understanding shall not preclude the City and the Union from meeting and conferring and agreement upon other or substituted benefits in subsequent Memoranda of Understanding.

Section 40. Separability of Provisions

Should any section, clause, or provision of this Memorandum of Understanding be declared illegal by final judgment of a court of competent jurisdiction, such invalidation of such section, clause or provisions shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of this Memorandum of Understanding.

In the event of such invalidation, the parties agree to meet and confer concerning substitute provisions for the provisions rendered or declared illegal.

Section 41. Resolution of Impasses

In the event that the parties to this Memorandum of Understanding fail to successfully negotiate a Memorandum of Understanding to succeed this one, and either party declares an impasse, the parties shall proceed to mediation pursuant to Resolution No. 1970-20, as amended, and if that procedure does not resolve the dispute, the parties shall proceed to advisory fact-finding, the result of which shall be kept confidential. If the parties are unable to reach an agreement after the conclusion of such fact-finding, the Union shall not be precluded from conducting informational picketing on City premises in accordance with state and federal law; provided, that the Union, its officers, and representatives shall not prevent any City employee from reporting to work.

Section 42. Tuition Reimbursement Program

The provisions of this section shall only apply to all positions in the unit:

(a) The City will pay the costs of books and tuition at accredited public institutions. If the course is at a private institution, the approval of the City Manager is required and the City reserves the right to pay only a portion of the tuition. The institution may be located in any one of the nine Bay Area counties.

(b) The courses of instruction taken by the employee must be job related and the employee must have obtained prior approval of the department head and the City Manager, if appropriate, prior to taking the course in order to be entitled to reimbursement.

(c) The employee must receive a passing grade in order to receive reimbursement.

(d) Reimbursement will be made upon submission to the City of written evidence that the employee obtained a passing grade in the approved course.

(e) In the case of Police Sergeants, the reimbursement shall not exceed an amount equal to 2% of the employee's annual salary. The reimbursement shall be provided to Police Sergeants while working to attain a BA or BS degree. Police Sergeants who chose to pursue an MA or MS degree must obtain prior approval from the City Manager. Reimbursement may be authorized; however the employee may be required to make restitution to the City if the course of instruction is not completed within specified time limits.

Section 43. Term

This Memorandum of Understanding is a compilation of the previous Memorandums of Understanding, with modifications negotiated by and between the parties, and thereafter approved pursuant to San Bruno City Council Resolution 2000-79.

Dated: December 12, 2000:

PROFESSIONAL AND VOCATIONAL EMPLOYEES DIVISION
TEAMSTERS LOCAL 856, I.B.T., REPRESENTING THE SAN BRUNO
PUBLIC SAFETY MID -MANAGEMENT EMPLOYEE'S ASSOCIATION

by: _____
Rick Watson, SBPSMMBU Member

by: _____
Robert Metcalfe, SBPSMMBU Member

by: _____
Matthew Campi, SBPSMMBU Member

by: _____
Dan Voreyer, SBPSMMBU Member

by: _____
Joseph Lanthier, President, Teamsters Local 856

CITY OF SAN BRUNO

by: _____
Frank Hedley, City Manager

by: _____
Steven Rogers, Assistant City Manager

by: _____
Lee Violet, Chief of Police

APPENDIX “A”

Effective November 2000					
	Step 1	Step 2	Step 3	Step 4	Step 5
Police Sergeant	5,350	5,632	5,928	6,239	6,567
Police Lieutenant	6,637	6,985	7,352	7,738	8,144
Police Captain	7,466	7,858	8,271	8,705	9,162
Fire Division Chief	7,139	7,513	7,908	8,323	8,760

Effective July 2001					
	Step 1	Step 2	Step 3	Step 4	Step 5
Police Sergeant	5,593	5,887	6,196	6,521	6,863
Police Lieutenant	6,936	7,300	7,683	8,086	8,511
Police Captain	7,802	8,212	8,643	9,097	9,575
Fire Division Chief	7,460	7,852	8,264	8,698	9,154

Effective July 2002 - To be determined by Salary Survey					
	Step 1	Step 2	Step 3	Step 4	Step 5
Police Sergeant					
Police Lieutenant					
Police Captain					
Fire Division Chief					

Effective July 2003 - To be determined by CPI Adjustment					
	Step 1	Step 2	Step 3	Step 4	Step 5
Police Sergeant					
Police Lieutenant					
Police Captain					
Fire Division Chief					